

Despite Supreme Court ruling, charters may get some tax money

Originally published September 22, 2015 at 8:59 pm

As the state Supreme Court considers motions asking it to reconsider a ruling that prohibits charters from receiving public money, the schools may continue to get it.

By [John Higgins](#)

Seattle Times education reporter

Despite the state Supreme Court's ruling earlier this month that charter schools aren't eligible to receive public money, the state plans to send at least \$770,000 to the state's nine charters early next week, the first in a series of payments they were expecting this school year.

The reason? The justice's 6-3 decision isn't final until the court has dealt with requests to reconsider its ruling — and there likely will be at least two of those.

Until then, the state's education department intends to keep funding the charter schools.

The Supreme Court's ruling — released late on the Friday afternoon before Labor Day weekend — has left lawyers on all sides of the issue struggling to figure out what happens next for the schools, which have enrolled about 1,200 students. The court ruled that charters are not entitled to public dollars under the state constitution because they have appointed rather than elected boards.

Most of the nine charters opened last month.

Randy Dorn, the state schools' chief, "has made it clear that he was disappointed by the timing of the court's decision, in part because it raises all of these difficult questions," said Dierk Meierbachtol, special assistant for legal affairs at the Office of Superintendent of Public Instruction (OSPI).

“When we have highly vulnerable, at-risk students whose ongoing education placement is at the mercy of the answers to these questions ... it puts a lot of pressure on us to try to come up with the right answers,” Meierbachtol said.

The attorney representing the plaintiffs, Paul Lawrence, said Tuesday afternoon that they are still considering options, which could include asking a judge to halt the payments. At minimum, he said, they would want assurances that the state has a plan to get the money back.

“It certainly seems appropriate that the state needs to take steps to make sure that it gets repaid assuming the decision stays in place and becomes final,” Lawrence said.

OSPI officials say they are still talking with lawyers about whether they would seek repayment if the court’s decision stands.

Here’s what’s going on:

After the justices issued their ruling, the parties in the case were given until Sept. 24 to ask the court to take another look at points of law or facts they believe the justices overlooked or got wrong.

At least two such motions are expected: one from Washington Attorney General Bob Ferguson and one from the Washington State Charter School Association, an advocacy organization. The association has since received an extension until Oct. 23.

There’s no set timeline for the court to rule on the motions.

After those are settled, the court then issues a mandate saying its ruling is final, which it sends back to the King County Superior Court, where the case was first argued, to write an appropriate order.

In the meantime, all nine charter schools will receive tax dollars from the state. That includes First Place Scholars, the subject of a state audit released Monday that said the school owes about \$200,000 to the state because it received more public money than it was entitled to last school year.

The other eight schools opened for the first time this year.

In the state's motion for reconsideration, Ferguson has said it will argue that the ruling "unnecessarily calls into question the constitutionality of a wide range of other state educational programs."

He cited Running Start as an example, a program that allows high-school students to take college classes and receive high-school and college credit for them. He also mentioned skills centers that provide career and technical education to high-school students.

In its motion, the Washington State Charter School Association has said it will argue that the court didn't mention the fact that the two charters in Spokane were authorized by the school district there, said Tom Franta, the association's CEO.

The other seven charters were authorized by the appointed Washington State Charter School commissioners.

"The biggest factual error by the court is not acknowledging Spokane Public Schools as an authorizer," Franta said. "Ultimately, the local school board is responsible for determining whether or not those public charter schools exist."

Regardless of the court's final decision, the association has promised to find private funding — an estimated \$14 million — to keep the schools' doors open.

"We remain confident that we will be able to do everything that is necessary to keep these schools open through the rest of the year," Franta said.

John Higgins: 206-464-3145 or jhiggins@seattletimes.com On Twitter [@jhigginsST](https://twitter.com/jhigginsST)